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MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 12 (8) (*a*) of the Bill empowers the Government to make any order for the purpose of removing any difficulty which may arise in giving effect to the provisions of the Bill when enacted or of the Principal Act as amended by the Bill when enacted. The powers delegated are normal and not of an exceptional character.

APPENDIX VII.

[Vide item III (5) on page 20 supra.]

L.A. BILL No. 22 OF 1960.

(As passed by the Assembly.)

A Bill further to amend the Madras Nurses and Midwives Act, 1926, *and to extend that Act to the transferred territory in the State of Madras.*

WHEREAS it is expedient further to amend the Madras Nurses and Midwives Act, 1926 (Madras Act III of 1926), for the purposes hereinafter appearing and to extend that Act to the transferred territory in the State of Madras;

BE it enacted in the Eleventh Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Madras Nurses and Midwives (Amendment) Act, 1960.

2. *Substitution of new long title and new preamble for the long title of, and the preamble to, Madras Act III of* 1926.—For the long title of, and the preamble to, the Madras Nurses and Midwives Act, 1926 (Madras Act III of 1926) (hereinafter referred to as the principal Act), the following shall be substituted, namely :—

" *An Act to provide for the registration of nurses, midwives, health visitors, auxiliary nurse-midwives and dhais in the State of Madras.*

WHEREAS it is expedient to provide for the registration of nurses, midwives, health visitors, auxiliary nurse-midwives and dhais in the State of Madras;

IT is hereby enacted as follows :—".

3. *Amendment of section* 1, *Madras Act III of* 1926.—In sub-section (2) of section 1 of the principal Act, for the words " Presidency of Madras ", the words " State of Madras " shall be substituted.

4. *Amendment of section* 2, *Madras Act III of* 1926.—For clause (*e*) of section 2 of the principal Act, the following clause shall be substituted, namely :—

" (*e*) ' Register ' means a register maintained under this Act and ' registered ' means registered or deemed to be registered under this Act ".

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5. *Amendment of section* 3, *Madras Act III of* 1926.—In sub-section (1) of section 3 of the principal Act—

(i) in the opening paragraph, for the words " Presidency of Madras ", the words " State of Madras " shall be substituted;

(ii) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely :—

" (*a*) the Director of Medical Services;

(*b*) three officers of the Public Health Department of Government, nominated by the State Government, of whom one shall be a nurse ";

(iii) in clause (*c*), for the word " Superintendent ", the word " Dean " shall be substituted;

(iv) in clause (*g*) for the word " Matron " in the two places where it occurs, the word " Nursing " shall be substituted;

(v) in the last sentence, for the words " The Surgeon-General ", the words " The Director of Medical Services " shall be substituted.

6. *Substitution of new section for section* 5, *Madras Act III of* 1926.—For section 5 of the principal Act, the following section shall be substituted, namely :—

" 5. *Registration of nurses, midwives, health visitors and auxiliary nurse-midwives*.—(1) The Council shall maintain a register of nurses, midwives, health visitors and auxiliary nurse-midwives and in such register shall be entered the names of all nurses, midwives, health visitors and auxiliary nurse-midwives, who have undergone the course of training and passed the examinations and fulfil the conditions prescribed.

(2) The register referred to in sub-section (1) shall consist of such parts and shall be maintained in such manner as may be prescribed."

7. *Insertion of new section 5-A in Madras Act III of* 1926.—After section 5 of the principal Act, the following section shall be inserted, namely :—

" 5-*A*. *Nurses and midwives registered under Travancore-Cochin Act X of* 1953 *deemed to be registered under this Act*.—(1) Notwithstanding anything contained in this Act, any person registered under the Travancore-Cochin Nurses and Midwives Act, 1953 (Travancore-Cochin Act X of 1953), who, immediately before the first day of November 1956, was holding any appointment as nurse or midwife in any hospital, dispensary, or infirmary not supported entirely by voluntary contributions in the transferred territory or who, immediately before the said day, was practising as nurse or midwife in that territory shall, subject to the provisions of section 7, be deemed to be registered as a nurse or as the case may be, a midwife under this Act,

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Explanation.—For the purpose of this sub-section, the expression ' transferred territory ' shall mean the Kanyakumari district and the Shencottah taluk of the Tirunelveli district.

(2) The Council shall, subject to such conditions and restrictions as may be prescribed, enter in the register referred to in sub-section (1) of section 5 the name of any person who, under sub-section (1) of this section, is deemed to be registered under this Act."

8. *Amendment of section 7, Madras Act III of* 1926.—In section 7 of the principal Act, for the words " any nurse, midwife or dhai ", wherever they occur, the words " any nurse, midwife, health visitor, auxiliary nurse-midwife or dhai " shall be substituted.

9. *Amendment of section* 8, *Madras Act III of* 1926.—In section 8 of the principal Act—

(i) in sub-section (1), for the words " Any nurse, midwife or dhai ", the words " Any nurse, midwife, health visitor, auxiliary nurse-midwife or dhai shall be substituted;

(ii) in sub-section (2), in clause (*c*), for the words " nurses and midwives ", the words " nurses, midwives, health visitors and auxiliary nurse-midwives " shall be substituted.

10. *Amendment of section* 10, *Madras Act III of* 1926.—In sub-section (1) of section 10 of the principal Act, for the words " nurse or midwife ", in the two places where they occur, the words " nurse, midwife, health visitor or auxiliary nurse-midwife " shall be substituted and to the same sub-section the following Explanation shall be added, namely :—

" *Explanation.*—In relation to a health visitor or auxiliary nurse-midwife, the expression ' commencement of this Act ' in this sub-section shall be construed as referring to the date of the coming into force of the Madras Nurses and Midwives (Amendment) Act, 1960."

11. *Amendment of section* 11, *Madras Act III of* 1926.—In section 11 of the principal Act—

(i) in sub-section (2),—

(*a*) after clause (*b*), the following clause shall be inserted, namely :—

" (*bb*) prescribing the conditions and restrictions subject to which the Council shall enter in the register referred to in sub-section (1) of section 5, the name of any person under sub-section (2) of section 5-A ";

(*b*) in clause (*d*), for the words " nurses, midwives and dhais " in the two places where they occur, the words " nurses, midwives, health visitors, auxiliary nurse-midwives and dhais " shall be substituted;

(ii) after sub-section (2), the following sub-section shall be added, namely :—

" (3) All rules made under this Act shall, as soon as possible after they are made, be placed on the table of both Houses of the Legislature and shall be subject to such modifications by way of amendment or repeal as the Legislature may make either in the same session or in the next session."

12. *Amendment of section* 12, *Madras Act III of* 1926.—In clauses (*b*) and (*c*) of sub-section (1) of section 12 of the principal Act, for the words " nurses, midwives and dhais ", the words " nurses, midwives, health visitors, auxiliary nurse-midwives and dhais " shall be substituted.

13. *Insertion of new section* 12-A *in Madras Act III of* 1926.—After section 12 of the principal Act, the following section shall be inserted, namely :—

" 12-A. *Prohibition of unauthorized conferment.*—(1) Save as provided in this Act or the rules or by-laws made thereunder, no person shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practise the profession of a registered nurse, midwife, health visitor, auxiliary nurse-midwife or dhai.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to one thousand rupees; and if the person so contravening is an association, every member of such association who knowingly and wilfully authorizes or permits the contravention, shall be punishable with fine which may extend to five hundred rupees."

14. *Amendment of section* 14, *Madras Act III of* 1926.—In section 14 of the principal Act—

(i) in sub-section (1), for the words " registered nurse " wherever they occur, the words " registered nurse or health visitor " shall be substituted;

(ii) in sub-section (2), for the words " registered midwife or dhai " wherever they occur, the words " registered midwife, auxiliary nurse-midwife or dhai " shall be substituted.

15. *Extension of Madras Act III of* 1926 *to the transferred territory, repeals and savings.*—(1) The Madras Nurses and Midwives Act, 1926 (Madras Act III of 1926), as in force immediately before the date of the commencement of this Act and as amended by this Act (hereinafter in this section referred to as the Madras Act), is hereby extended to, and shall be in force in, the transferred territory.

(2) Any law corresponding to the Madras Act in force in the transferred territory immediately before the date of the commencement of this Act, including the Travancore-Cochin Nurses and

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Midwives Act, 1953 (Travancore-Cochin Act X of 1953) (hereinafter in this section referred to as the corresponding law), shall stand repealed on the date of such commencement.

(3) The repeal by sub-section (2) of the corresponding law shall not affect—

(*a*) the previous operation of the corresponding law or anything done or duly suffered thereunder; or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the corresponding law; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law; or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(4) Subject to the provisions of sub-section (3), anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, or any rule, regulation or form framed, certificate granted or registration effected, under the corresponding law shall be deemed to have been done or taken under the Madras Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under the Madras Act.

(5) Unless the context otherwise requires, the Madras General Clauses Act, 1891 (Madras Act I of 1891), shall apply for the interpretation of the Madras Act as extended to, and in force in, the transferred territory.

(6) For the purpose of facilitating the application of the Madras Act in the transferred territory, any court or other authority may construe such Act with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority.

(7) Any reference in the Madras Act to a law which is not in force in the transferred territory shall, in relation to that territory, be construed as a reference to the law, if any, in force in that territory corresponding to such law.

(8) Any reference to the corresponding law in any law which continues to be in force in the transferred territory after the date of commencement of this Act shall, in relation to that territory, be construed as a reference to the Madras Act.

Explanation.—For the purpose of this section, the expression "transferred territory" shall mean the Kanyakumari district and the Shencottah taluk of the Tirunelveli district.

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16. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act or of the principal Act as amended by this Act, the State Government as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) All orders issued under sub-section (1) shall, as soon as possible after they are issued, be placed on the table of both Houses of the Legislature and be subject to such modification, by way of amendment or repeal as the Legislature may make either in the same session or in the next session.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

New section 5, which is proposed to be substituted by clause 6 of the Bill, empowers the State Government to prescribe—

(*a*) the course of training to be undergone, the examinations to be passed and the conditions to be fulfilled by nurses, midwives, health visitors and auxiliary nurse-midwives, before their names are entered in the register maintained by the Madras Nurses and Midwives Council, and

(*b*) the parts which such register shall consist of and the manner in which it shall be maintained.

Sub-section (2) of new section 5-A and new clause (*bb*) of sub-section (2) of section 11 which are proposed to be inserted by clauses 7 and 11 of the Bill respectively empower the State Government to prescribe the conditions and restrictions subject to which the Council shall enter in the register the name of any person under sub-section (2) of new section 5-A.

Clause 16 of the Bill empowers the Government to do anything by order for the purpose of removing any difficulty, which may arise in giving effect to the provisions of the Bill when enacted.

The powers delegated are normal and not of an exceptional character.